

By: Ellis, Davis, Lucio

S.B. No. 38

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain discounts and reimbursements allowed for
3 payment of sales and use taxes and the allocation of certain revenue
4 from those taxes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 151.423, Tax Code, is amended to read as
7 follows:

8 Sec. 151.423. REIMBURSEMENT TO TAXPAYER FOR TAX
9 COLLECTIONS. Subject to Section 151.4231, a [A] taxpayer may
10 deduct and withhold three-fourths [~~one-half~~] of one percent of the
11 amount of taxes due from the taxpayer on a timely return as
12 reimbursement for the cost of collecting the taxes imposed by this
13 chapter. [~~The comptroller shall provide a card with each form~~
14 ~~distributed for the collection of taxes under this chapter. The~~
15 ~~card may be inserted by the taxpayer with the tax payment to provide~~
16 ~~for contribution of all or part of the reimbursement provided by~~
17 ~~this section for use as grants under Subchapter M, Chapter 56,~~
18 ~~Education Code. If the taxpayer chooses to contribute the~~
19 ~~reimbursement for the grants, the taxpayer shall include the amount~~
20 ~~of the reimbursement contribution with the tax payment. The~~
21 ~~comptroller shall transfer money contributed under this section for~~
22 ~~grants under Subchapter M, Chapter 56, Education Code, to the~~
23 ~~appropriate fund.]~~

24 SECTION 2. Subchapter I, Chapter 151, Tax Code, is amended

1 by adding Section 151.4231 to read as follows:

2 Sec. 151.4231. LIMITATION ON AMOUNT OF REIMBURSEMENT. (a)

3 The amount deducted and withheld by a taxpayer under Section
4 151.423 may not exceed:

5 (1) \$312.50 each month if the taxpayer files monthly;

6 (2) \$937.50 each quarter if the taxpayer files
7 quarterly under Section 151.401(b); and

8 (3) \$3,750 each state fiscal year.

9 (b) The comptroller shall adopt rules for determining to
10 which state fiscal month, quarter, and year amounts deducted and
11 withheld by a taxpayer under Section 151.423 will be allocated for
12 purposes of this section.

13 SECTION 3. Section 151.424, Tax Code, is amended by
14 amending Subsection (a) and adding Subsections (a-1), (e), and (f)
15 to read as follows:

16 (a) In addition to the amount permitted to be deducted and
17 withheld under Section 151.423, a [A] taxpayer who prepays the
18 taxpayer's tax liability on the basis of a reasonable estimate of
19 the tax liability for a quarter in which a prepayment is made or for
20 a month in which a prepayment is made may deduct and withhold the
21 lesser of the following, as determined by the comptroller under
22 Subsection (e):

23 (1) 1.25 percent of the amount of the prepayment; or

24 (2) an annually adjusted percentage of the amount of
25 the prepayment that yields an annualized rate of return equal to the
26 prime rate as published in The Wall Street Journal on the first
27 business day of each calendar year, plus four percent [~~in addition~~

1 ~~to the amount permitted to be deducted and withheld under Section~~
2 ~~151.423 of this code].~~

3 (a-1) A reasonable estimate of the tax liability under
4 Subsection (a) must be at least 90 percent of the tax ultimately due
5 or the amount of tax paid in the same quarter, or month, if a monthly
6 prepayer, in the last preceding year. Failure to prepay a
7 reasonable estimate of the tax will result in the loss of the entire
8 prepayment discount.

9 (e) Not later than January 5 of each year, the comptroller
10 shall:

11 (1) determine the percentage of a taxpayer's
12 prepayment that may be deducted and withheld under Subsection (a);
13 and

14 (2) publish the percentage determined under this
15 subsection on the comptroller's Internet website.

16 (f) The percentage determined under Subsection (e) applies
17 to a deduction and withholding from a prepayment of tax liability
18 that a taxpayer makes on or after January 15 of the year the
19 comptroller makes the determination and before January 15 of the
20 succeeding year.

21 SECTION 4. Section 151.801, Tax Code, is amended by
22 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
23 read as follows:

24 (a) Except for the amounts allocated under Subsections
25 (a-1), (a-2), (b), and (c), all proceeds from the collection of the
26 taxes imposed by this chapter shall be deposited to the credit of
27 the general revenue fund.

1 (a-1) The comptroller shall calculate the difference
2 between the amount of the proceeds from the collection of the taxes
3 imposed by this chapter that, in the absence of the limitation on
4 reimbursements specified by Section 151.4231, taxpayers would
5 deduct and withhold under Section 151.423 at the percentage in
6 effect under that section on January 1, 2011, and the amount that
7 taxpayers actually deduct and withhold under Section 151.423 after
8 applying the limitation specified by Section 151.4231. The
9 comptroller shall deposit an amount equal to that difference to an
10 account in the general revenue fund. Money in the account may be
11 appropriated only to provide grants under Subchapter M, Chapter 56,
12 Education Code.

13 (a-2) If the percentage determined under Section
14 151.424(a)(2) applies in determining the amount a taxpayer may
15 deduct and withhold under Section 151.424 from taxes imposed by
16 this chapter, the comptroller shall determine the difference
17 between the amount the taxpayer would deduct and withhold if the
18 percentage under Section 151.424(a)(1) applied and the amount the
19 taxpayer actually deducts and withholds under Section
20 151.424(a)(2). The comptroller shall deposit an amount equal to
21 that difference in an account in the general revenue fund. Money in
22 the account may be appropriated only to provide grants under
23 Subchapter M, Chapter 56, Education Code.

24 SECTION 5. The comptroller of public accounts shall make
25 the initial determination required by Section 151.424(e), Tax Code,
26 as added by this Act, not later than January 5, 2012.

27 SECTION 6. Section 151.423, Tax Code, as amended by this

1 Act, applies to a tax report due on or after the effective date of
2 this Act. A tax report due before the effective date of this Act is
3 governed by the law in effect on the date the tax report was due, and
4 the former law is continued in effect for that purpose.

5 SECTION 7. Section 151.424, Tax Code, as amended by this
6 Act, applies to a prepayment of tax liability made on or after
7 January 15, 2012. A prepayment of tax liability made before January
8 15, 2012, is governed by the law in effect immediately preceding the
9 effective date of this Act, and the former law is continued in
10 effect for that purpose.

11 SECTION 8. The change in law made by this Act does not
12 affect tax liability accruing before the effective date of this
13 Act. That liability continues in effect as if this Act had not been
14 enacted, and the former law is continued in effect for the
15 collection of taxes due and for civil and criminal enforcement of
16 the liability for those taxes.

17 SECTION 9. This Act takes effect September 1, 2011, if this
18 Act receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for this Act to take
21 effect on that date, this Act takes effect October 1, 2011.